

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* A. BLEDSOE, Minor.

UNPUBLISHED  
December 10, 2015

Nos. 327662; 327677  
Ottawa Circuit Court  
Family Division  
LC No. 13-075720-NA

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Before: RONALYNE KRAUSE, P.J., and MARKEY and M. J. KELLY, JJ.

PER CURIAM.

Respondent mother and respondent father appeal by right the trial court's order terminating their parental rights to A.B. under MCL 712A.19b(3)(c)(i) (failure to rectify conditions that led to adjudication) and (g) (failure to provide proper care and custody). We affirm.

Respondents first contend that the trial court clearly erred in finding that a statutory ground for terminating their parental rights was proved by clear and convincing evidence. We disagree. "In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). The trial court's determination is reviewed for clear error. *Id.*; MCR 3.977(K). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013) (citation omitted).

The trial court did not clearly err in finding that MCL 712A.19b(3)(g) was proved by clear and convincing evidence. That statute provides that termination is warranted where "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." Here, there was adequate evidence that respondents failed to provide proper care and custody and that they would not be able to do so within the foreseeable future considering A.B.'s age. A.B. had been in foster care for approximately 20 months and was seven years old at the time of termination.

With respect to mother, the evidence showed that housing and substance abuse were two of her primary barriers to reunification throughout the case. In the months leading to the adjudication, mother had been living in a drug house before bouncing around from place to place once that house was raided by police. Ultimately, at the time of adjudication, she was living with

her parents. Likewise, in the months leading to the adjudication, mother had admitted using marijuana, methamphetamine, crack cocaine and prescription pills. Mother was provided services to address these issues and others, but the evidence indicated that her participation throughout the case was sporadic at best. For instance, she did not submit to a substance abuse assessment until approximately eight months into the case. Moreover, she failed to regularly meet with the parent mentor and to comply with drug screening requirements, often going prolonged periods of time without submitting to a single drug screen. When she did submit to drug screens, she consistently tested positive for marijuana, despite the fact that she did not possess a valid medical marijuana card for the substantial majority of the case. She also tested positive for other drugs, including cocaine and opiates, as recently as April 2015, a week before the termination proceedings began. As of March 2015, her substance abuse counselor had opined that mother was inconsistent with her participation, unable to maintain success without setbacks, and remained at “high risk” for future drug use. While the counselor’s outlook was more favorable in April 2015, there was no indication that mother had in fact rectified her substance abuse issue. Finally, at the time of termination, mother continued living with her parents and her brother; that household was deemed inappropriate for A.B. in light of the fact that mother’s brother had previously sexually abused mother’s other child. In sum, the totality of the evidence amply supported the trial court’s conclusion that mother had failed to provide proper care and custody. Moreover, given that mother had no concrete plans for future housing, a meager income from Social Security, and would require additional substance abuse and parenting services, the trial court did not clearly err in finding that mother would be unable to provide proper care and custody within the foreseeable future considering A.B.’s age. The trial court’s determination that termination of mother’s parental rights was warranted under MCL 712A.19b(3)(g) was not clearly erroneous.

Father’s biggest barrier to reunification throughout the case was his alcohol use. DHS identified his alcohol problem at the outset of the proceedings and provided him with services early on. Yet father’s progressed little for the first 18 months of this case. For instance, he tested positive for alcohol twice between October and December 2013. Moreover, he failed to complete a substance abuse assessment early on in the case, telling the caseworker that he did not need such a service. Eventually, father completed the assessment and participated in substance abuse services. By July 2014, DHS noted that father was consistently testing negative for alcohol. But as father would later admit, he never truly quit drinking alcohol during this time frame; he simply was able to elude detection. In any event, his brief progress eventually halted in July 2014, when he was involved in a string of alcohol-related incidents that ultimately led to his incarceration for a period of approximately five months. The evidence showed that father made a determined effort to address his substance abuse issue once he was incarcerated by attending AA meetings, church, and a bible study program. Moreover, once he was released from jail in March 2015, he continued with these programs. By the time the termination proceedings concluded in May 2015, father had, by all accounts, rededicated himself to sobriety. However, as the caseworker opined, father was essentially “starting over” at the time of the termination, and the caseworker expressed doubt as to whether father would maintain his sobriety given his history. Likewise, father’s parent mentor, while acknowledging father’s commitment to bettering himself since being released from jail and his overall progress since that time, acknowledged that she could not be certain father would maintain his sobriety or that he would be able to make sufficient progress within the next several months to warrant returning A.B. to his care. Finally, we note that father displayed an inability to obtain suitable housing

throughout this case. While he testified at the termination hearing that he had taken over his mother's house payments and kicked her and everyone else out of the home to make it suitable for A.B., he provided no proof of that fact (such as an assignment of mortgage or even rent receipts) to the trial court. Moreover, the caseworker noted on the last day of the termination hearing that he had observed father's mother in the home that same day. Given all of this evidence, the trial court did not clearly err in finding that father had continuing barriers to reunification such that he failed to provide proper care and custody and would be unable to do so within the foreseeable future considering A.B.'s age. Consequently, termination of his parental rights under MCL 712A.19b(3)(g) was not clearly erroneous.

Respondents also argue that the trial court clearly erred in finding that termination of their parental rights was in A.B.'s best interests. We disagree. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012) (citations omitted). See MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App at 90. We review this determination for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

The record in this case contained sufficient evidence to support the trial court's determination A.B.'s best interests. As the trial court recognized, there was a clear bond between A.B. and his parents, especially father. This case, however, had been ongoing for approximately 20 months, the entirety of which seven-year-old A.B. had spent in foster care. He was in desperate need of permanence and stability. At the time of termination, both parents were unable to provide that permanence or stability, and it was questionable whether either would be able to do so within the foreseeable future. Considering that these lengthy proceedings had already taken an emotional toll on A.B., we agree it was not in his best interests to subject him to another, potentially lengthy period of instability while waiting for one or both of these parents to demonstrate that they could adequately care for him. Moreover, whereas the parents were not able to provide A.B. with stability, his foster parents provided him a safe, loving home and were willing to adopt him. Given the totality of the circumstances, the trial court did not clearly err in finding that termination of both parents' parental rights was in A.B.'s best interests.<sup>1</sup>

We affirm.

/s/ Amy Ronayne Krause  
/s/ Jane E. Markey  
/s/ Michael J. Kelly

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<sup>1</sup> We are mindful of mother's argument that the trial court failed to consider how terminating her parental rights would affect the sibling relationship between A.B. and his half-brother. In light of the fact that the children were ordered to have no contact with each other on the recommendation of a counselor, we find this argument unavailing.